

EXHIBIT D

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Page 1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ORACLE AMERICA, INC.,

Plaintiff,

vs.

GOOGLE, INC.,

Defendant.

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)Case No.:

)3:10-cv-03561-WHA

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ATTORNEYS' EYES ONLY

VIDEOTAPED DEPOSITION OF ADAM B. JAFFE, Ph.D.

San Francisco, California

Thursday, March 10, 2016

Volume 1

Reported by:

RACHEL FERRIER, CSR No. 6948

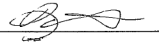
Job No. 2265294

PAGES 1 - 189

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<p style="text-align: right;">Page 138</p> <p>1 THE WITNESS: Fair enough.</p> <p>2 MS. ANDERSON: -- my portion of the exam. I'm</p> <p>3 very close. Maybe 30 minutes, I'm guessing.</p> <p>4 THE VIDEOGRAPHER: We are off the record at</p> <p>5 2:33 p.m.</p> <p>6 (Recess taken.)</p> <p>7 THE VIDEOGRAPHER: We are back on the record at</p> <p>8 2:40 p.m.</p> <p>9 MS. ANDERSON: All right. So I would like to</p> <p>10 just take a quick look at a couple articles to confirm</p> <p>11 if this was something you were referring to earlier.</p> <p>12 I'm going to show you Exhibits 1463 and 1464 and</p> <p>13 pass these around while you are looking.</p> <p>14 (Exhibits 1463 and 1464 were marked for</p> <p>15 identification by the Court Reporter.)</p> <p>16 MS. ANDERSON: There you are. There you guys go.</p> <p>17 Q All right. Earlier, Dr. Jaffe, we had been</p> <p>18 discussing the SavaJe phone, and you had testified that</p> <p>19 the SavaJe phone received negative market reviews and --</p> <p>20 A I think I testified I had heard it had received a</p> <p>21 negative review.</p> <p>22 Q Oh, okay.</p> <p>23 So I'm showing you Exhibits 1463 and 1464.</p> <p>24 Have you ever seen either of these articles</p> <p>25 before?</p>	<p style="text-align: right;">Page 140</p> <p>1 lost actual or potential licensing opportunities due to</p> <p>2 Android.</p> <p>3 Q With respect to the information reflected in</p> <p>4 Table 7, what, if anything, did you do or did you have</p> <p>5 Keystone do to investigate the extent to which any of</p> <p>6 the OEMs or carriers identified in the left-hand column</p> <p>7 of Table 7 chose to move product over to Android for</p> <p>8 reasons having nothing to do with the 37 Java APIs?</p> <p>9 A Well, I don't really see how they could have done</p> <p>10 that, since it's my opinion that there probably would</p> <p>11 not have been an Android as we know it had it not been</p> <p>12 for Google's infringement of the 37 APIs, so I didn't go</p> <p>13 any further in trying to figure out what it was about</p> <p>14 Android that they chose -- that made them choose to go</p> <p>15 in that direction.</p> <p>16 Q Did you do anything to investigate whether or not</p> <p>17 any of the OEMs or carriers identified in the left-hand</p> <p>18 column of Table 7 decided to cease using a Java platform</p> <p>19 because of problems with the Java platform?</p> <p>20 A Yes. I mean, I think in each of these cases we</p> <p>21 tried to learn what we could about what was going on,</p> <p>22 and I think taken -- any one of these cases taken</p> <p>23 individually, I think, in many cases -- well, at least</p> <p>24 in some cases, we have only a limited understanding of</p> <p>25 what was going on.</p>
<p style="text-align: right;">Page 139</p> <p>1 A No.</p> <p>2 Q All right. When you say that you had heard that</p> <p>3 the SavaJe phone had received a negative market review,</p> <p>4 did you hear that from an Oracle representative?</p> <p>5 A I don't recall.</p> <p>6 Q Did you ever review any materials to suggest that</p> <p>7 SavaJe had received negative market reviews?</p> <p>8 A No.</p> <p>9 Q All right. Do you know whether Exhibits 1463 and</p> <p>10 1464 were materials provided to you or the Keystone</p> <p>11 staff to assist you in preparing your opinions?</p> <p>12 A I don't know.</p> <p>13 Q Okay. All right. Let's take a look at Tables 7</p> <p>14 and 8 to your report, Exhibit 1457, and I think it</p> <p>15 should start at about page 143.</p> <p>16 So Table 7 is on page 143. Table 8 is on 144.</p> <p>17 A Yes, I see them.</p> <p>18 Q All right. What kind of information are you</p> <p>19 seeking to reflect in Table 7?</p> <p>20 A So this is what the title says it is. It's</p> <p>21 examples of harm to Oracle and mobile phones, and they</p> <p>22 are pulled out of a longer and more comprehensive</p> <p>23 compendium of evidence that is in one of my exhibits,</p> <p>24 and it is just attempting to show, in an illustrative</p> <p>25 way, examples of places in which it appears that Oracle</p>	<p style="text-align: right;">Page 141</p> <p>1 What's important to me here is sort of the</p> <p>2 overall picture. These are, in fact, presented only as</p> <p>3 examples, and I think, in terms of the overall picture,</p> <p>4 you do get repeated themes coming back from different</p> <p>5 manufacturers, so I think it is reasonable to conclude</p> <p>6 that the overall picture that the loss of market</p> <p>7 position by Java is -- is being certainly affected by</p> <p>8 Android, I think, is -- is pretty much unavoidable,</p> <p>9 given the breadth of this kind of evidence across</p> <p>10 different people and different device categories.</p> <p>11 Q Do you have any evidence that establishes for you</p> <p>12 conclusively why any of the OEMs or carriers listed in</p> <p>13 Table 7 decided to cease using the Java platform?</p> <p>14 A So I think, if you look at the complete exhibit,</p> <p>15 there are cases where it is at least -- we have at least</p> <p>16 reports from Oracle salespeople what the OEM told them</p> <p>17 about why they were doing it. And, again, I think that</p> <p>18 when you take that -- I'm not -- I haven't really</p> <p>19 focused on one by one because I don't think that's what</p> <p>20 matters for my opinion. If there were one of these</p> <p>21 that, for some reason, turned out to be explained for</p> <p>22 things I didn't understand, that would not change the</p> <p>23 opinion. I think it's very unlikely that every single</p> <p>24 one of them there's some other story that somehow has</p> <p>25 not surfaced.</p>

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<p style="text-align: right;">Page 186</p> <p>1 between harm to ME and harm to SE.</p> <p>2 Q Okay. All right. You also were asked a question</p> <p>3 earlier about whether or not RIM had stopped licensing</p> <p>4 Java ME because of Android.</p> <p>5 Do you recall that question?</p> <p>6 A Yes.</p> <p>7 Q You pointed to some deposition testimony in an</p> <p>8 exhibit to your report; correct?</p> <p>9 A Yes.</p> <p>10 Q Okay. Aside from the testimony you identified</p> <p>11 for Mr. Cooper, do you have any opinion about whether or</p> <p>12 not RIM stopped licensing Java ME because of Android?</p> <p>13 A So the testimony I referred to was from</p> <p>14 Mr. Ringhofer, and as I sit here today, I don't have</p> <p>15 anything more to say about that beyond what's in my</p> <p>16 report and what's listed in the exhibit here,</p> <p>17 Exhibit 22.</p> <p>18 Q Did you do anything to inquire into statements by</p> <p>19 any RIM representative as to whether or not RIM stopped</p> <p>20 licensing Java ME because of Android?</p> <p>21 A I don't recall seeing or investigating any</p> <p>22 statements by RIM personnel as to why they stopped using</p> <p>23 Java.</p> <p>24 Q Okay. And your Exhibit 22 that you had</p> <p>25 referenced in response to the question about RIM that's</p>	<p style="text-align: right;">Page 188</p> <p>1 I, ADAM B. JAFFE, Ph.D., do hereby declare</p> <p>2 under penalty of perjury that I have read the foregoing</p> <p>3 transcript; that I have made any corrections as appear</p> <p>4 noted, in ink, initialed by me, or attached hereto; that</p> <p>5 my testimony as contained herein, as corrected, is true</p> <p>6 and correct.</p> <p>7 EXECUTED this ____ day of _____,</p> <p>8 2016, at _____, _____.</p> <p>9 (City) (State)</p> <p>10</p> <p>11 _____</p> <p>12 ADAM B. JAFFE, Ph.D.</p> <p>13 VOLUME 1</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 187</p> <p>1 part of your report lists a number of third parties</p> <p>2 under a category of OEM; right?</p> <p>3 A Yes.</p> <p>4 Q Did you do anything or have Keystone do anything</p> <p>5 as part of preparing your report to investigate</p> <p>6 statements by any of those OEMs to establish whether or</p> <p>7 not it stopped licensing a Java product because of</p> <p>8 Android?</p> <p>9 A I don't recall looking at or investigating any</p> <p>10 such statements.</p> <p>11 MS. ANDERSON: All right. No further questions.</p> <p>12 Thank you.</p> <p>13 MR. COOPER: Done.</p> <p>14 MS. SIMPSON: Thank you.</p> <p>15 THE VIDEOGRAPHER: This is the end of today's</p> <p>16 deposition of Dr. Adam Jaffe.</p> <p>17 We are off the record at 4:06 p.m. The number of</p> <p>18 video used was five, and it will be retained by</p> <p>19 Veritext.</p> <p>20 (TIME NOTED: 4:06 P.M.)</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 189</p> <p>1</p> <p>2</p> <p>3</p> <p>4 I, the undersigned, a Certified Shorthand</p> <p>5 Reporter of the State of California, do hereby certify:</p> <p>6 That the foregoing proceedings were taken before</p> <p>7 me at the time and place herein set forth; that any</p> <p>8 witnesses in the foregoing proceedings, prior to</p> <p>9 testifying, were placed under oath; that a verbatim</p> <p>10 record of the proceedings was made by me using machine</p> <p>11 shorthand which was thereafter transcribed under my</p> <p>12 direction; further, that the foregoing is an accurate</p> <p>13 transcription thereof.</p> <p>14 I further certify that I am neither financially</p> <p>15 interested in the action nor a relative or employee of</p> <p>16 any attorney or any of the parties.</p> <p>17 IN WITNESS WHEREOF, I have this date subscribed</p> <p>18 my name.</p> <p>19</p> <p>20 Dated: March 11, 2016</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: center;">  _____ RACHEL FERRIER CSR No. 6948 </p>